

### **REMARKS**

Claims 1-15 and 19-23 are pending in this application. Several claims have been amended herein. Claims 5, 12, 13, 15, and 21-23 have been canceled, without prejudice and without disclaimer of the subject matter therein. Accordingly, claims 1-4, 6-11, 19, and 20 are before the Examiner.

Applicants note with appreciation that several rejections have been withdrawn. The remainder of this response addresses the remaining rejections and objections.

#### **Specification**

Applicants note with appreciation the attention to detail the examiner has put forth in examining this case. Applicants have amended the specification, from its previously amended version, to correct the informalities noted in the Action.

#### **Double Patenting**

Before discussing the double patenting rejections, Applicants note that the present application is a 371 national phase filing based on PCT International Application no. SE2003/001277 filed on August 13, 2003.

Applicants further note that MPEP 804 directs that a provisional obviousness type double patenting rejection should be withdrawn where the reference application is later filed and the present claims are otherwise allowable.

*10/524,482 International Filing Date August 13, 2003*

Claims 1-4, 6-11, 14, 19 and 20 stand provisionally rejected for obviousness type double patenting over claims 1, 2, 4, 5, 7, 8, 13, and 14 of co-pending application no 10/524,482. There is a similar obviousness type double patenting rejection in the '482 application.

Applicants note that the two applications were filed on the same day (PCT International Filing

Date: August 13, 2003). MPEP 804, in pertinent part, provides:

If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue. If both applications are **filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement** (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.

(Emphasis added.) The Office has not, as yet, made such a determination. Accordingly, it is premature for Applicants to offer a Terminal Disclaimer. Once the Office has made a determination, Applicants will consider filing a Terminal Disclaimer in one of the applications.

*10/283,576: International Filing Date – December 20, 2004*

Claims 1-4, 6-11, 14, 19 and 20 stand provisionally rejected for obviousness type double patenting over claims 1, 2, 4, 5, 7, 8, 13, and 14 of co-pending application no. 10/283,576. The rejection based on the '576 application, by virtue of its later PCT international filing date, should be withdrawn pursuant to MPEP 804 since the present application is earlier filed and, after entry of this response, will have no other rejection outstanding. Applicants respectfully assert that no terminal disclaimer needs to be filed and that the obviousness type double patenting rejection based on the '576 application should be withdrawn.

The Commissioner is hereby authorized to charge any fee or underpayment thereof or credit any overpayment to Deposit Account No. 26-0166.

Applicants respectfully assert that all claims are now in condition for allowance. Early reconsideration and allowance of all pending claims is respectfully requested. The examiner is requested to contact the undersigned attorney if an interview, telephonic or personal, would facilitate allowance of the claims.

Respectfully submitted,  
/Michael A. Patané/

Date: September 25, 2008

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